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March 22, 2016

BY ECFS

Marlene Dortch

Secretary

Federal Communications Commission

445 12th Street, SW

Washington, D.C. 20554

PUBLIC VERSION

Re: Written *Ex Parte* Presentation, Declaration of Jeffrey Ansted, American Broadband and Telecommunications Company, *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, 09-197, 10-90

Dear Ms. Dortch:

American Broadband and Telecommunications Company (AMBT or the Company), by its undersigned attorney, hereby submits the enclosed PUBLIC declaration in support of the Lifeline Joint Commenters' comments submitted in the above-listed proceedings,¹ along with a request for confidential treatment of the materials contained in the declaration. A confidential version of the declaration has been submitted via hand delivery under separate cover.

Should you have any questions, please contact the undersigned.

Respectfully submitted,



John J. Heitmann

Joshua T. Guyan

Jameson J. Dempsey

*Counsel for American Broadband and
Telecommunications Company*

¹ See *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Comments of the Lifeline Joint Commenters (Aug. 31, 2015); *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Reply Comments of the Lifeline Joint Commenters (Sept. 30, 2015).

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March 22, 2016

BY HAND DELIVERY AND ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Written *Ex Parte* Presentation, Request for Confidential Treatment;
Declaration of Jeffrey Ansted, American Broadband and
Telecommunications Company; *In the Matter of Lifeline and Link Up
Reform and Modernization*, WC Docket Nos. 11-42, 09-197, 10-90 –
CONFIDENTIAL

Dear Madam,

American Broadband and Telecommunications Company (American Broadband or the Company), by its attorneys, hereby requests confidential treatment of the enclosed Declaration of Jeffrey Ansted (the Declaration).

The enclosed Declaration contains proprietary and confidential information. Such competitively sensitive information is exempted from mandatory disclosure under “Exemption 4” of the Freedom of Information Act (FOIA),¹ and Section 0.457(d) of the Commission’s rules.² Exemption 4 allows the withholding of commercial or financial information that is privileged or

¹ See 5 U.S.C. § 552(b)(4). Public disclosure is not required for “trade secrets, commercial or financial information obtained from a person and privileged and confidential.” *Id.*

² 7 C.F.R. § 0.457(d). See *National Parks and Conservation Ass’n. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (National Parks); *Southern Company Request for Waiver of Section 90.629 of the Commission’s Rules*, 14 FCC Rcd 1851, 1860 (1998) (Southern Company).

March 22, 2016

Page Two

confidential.³ The confidentiality requirement is satisfied if substantial competitive injury would likely result from disclosure.⁴ Accordingly, pursuant to Section 0.459 of the Commission's rules,⁵ American Broadband requests that the enclosed Declaration be withheld from public inspection.

The information for which American Broadband requests confidential treatment is proprietary and competitively sensitive information.⁶ The market for Lifeline services, including the wireless services provided by American Broadband, is highly competitive.⁷ The confidential Declaration reveals details about the Company's finances and cost structure, the disclosure of which would cause great harm to American Broadband.⁸ The Company derives independent economic value from the fact that significant, detailed proprietary information regarding American Broadband's costs is unknown to its competitors.⁹ Moreover, failure to treat American Broadband's business and financial information as confidential would provide competitors with an unfair competitive advantage by being granted access to the Company's proprietary information.¹⁰ The information contained in the enclosed Declaration is provided only to those employees and contractors that require such information to perform the requirements of their duties to American Broadband¹¹ and is not ordinarily made available to the public by the Company.¹² American Broadband requests that the enclosed Declaration not be made routinely available for public inspection at any time.¹³

³ 5 U.S.C. § 552(b)(4).

⁴ *Public Citizen Research Group v. FDA*, 704 F. 2d 1280, 1290-91 (D.C. Cir. 1983) ("*Public Citizen*").

⁵ See 47 C.F.R. § 0.457 and 47 C.F.R. § 0.459.

⁶ See 47 C.F.R. § 0.459(b)(3).

⁷ See 47 C.F.R. § 0.459(b)(4).

⁸ See 47 C.F.R. § 0.459(b)(5).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See 47 C.F.R. § 0.459(b)(6).

¹² See 47 C.F.R. § 0.459(b)(7).

¹³ See 47 C.F.R. § 0.459(b)(8).

KELLEY DRYE & WARREN LLP

March 22, 2016

Page Three

Please direct any questions as to this matter, including the request for confidential treatment, to the undersigned.

Respectfully submitted,



John J. Heitmann

Joshua T. Guyan

Jameson J. Dempsey

*Counsel to American Broadband and
Telecommunications Company*

Enclosure

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
)	

DECLARATION OF JEFFREY ANSTED

1. My name is Jeffrey Ansted and I am the President of American Broadband and Telecommunications Company (AMBT). My business address is 1 Seagate, Suite 600, Toledo, Ohio 43699. My job responsibilities include managing all matters that affect (AMBT) before federal and state regulatory agencies and legislative bodies, including the Federal Communications Commission (FCC or the Commission), in addition to negotiating wholesale agreements with our underlying carriers and determining pricing for our Lifeline-supported service plans.

2. AMBT, under our American Assistance brand, is a resale wireless service provider and competitive eligible telecommunications carrier (ETC) that provides affordable service to low-income consumers with the assistance of the Commission's Lifeline program. The purpose of this declaration is to support the Lifeline Joint Commenters' comments, filed in the above-captioned dockets, in response to the Commission's Second Further Notice of Proposed Rulemaking¹ to modernize the Lifeline program and its draft proposal—outlined in a March 8,

¹ See *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, (rel. June 22, 2015) (Second FNPRM); see also *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Comments of the Lifeline Joint Commenters (Aug. 31, 2015); *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Reply Comments of the Lifeline Joint Commenters (Sept. 30, 2015).

2016 fact sheet—to require ETCs to meet a monthly minimum service standard of unlimited voice minutes or 500 megabytes (MB) of data to qualify for the \$9.25 monthly Lifeline subsidy.²

Voice Minute Costs

3. In the Second FNPRM, the Commission referenced studies showing that average voice minutes of use per month are between 644 and 746 minutes.³ For purposes of this declaration, I assume that on average unlimited-minutes customers will use the average number of minutes—i.e., approximately 700 minutes per month.

4. Excluding the wireless device cost, which is substantial, AMBT's average total costs to provide unlimited wireless minutes each month, based on a proxy of 700 minutes of use per month, would be [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], which is greater than the \$9.25 per month Lifeline reimbursement. Total costs include per-minute wholesale network costs,⁴ as well as costs for our back-office vendor, compliance, legal, distribution, amortized customer acquisition, marketing, taxes, and other associated costs.

5. Based solely on our per-minute cost of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], the network cost to provide 700 minutes would be [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], which is greater than the \$9.25 per month Lifeline reimbursement. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL]

6. Therefore, based on either our total costs or our per-minute costs, AMBT cannot provide unlimited minutes each month to Lifeline customers without requiring our customers to make a monthly co-payment for the service.

Broadband Costs

7. Excluding the wireless device cost, which is substantial, AMBT's total costs to provide 500 MB of data each month would be [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], which is greater than the \$9.25 per month Lifeline reimbursement. Total costs include per-megabyte wholesale network costs and per-line costs from our underlying

² See Chairman Wheeler & Commissioner Clyburn Propose Rules to Modernize Lifeline Program to Provide Affordable Broadband for Low-Income Americans, *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0314/DOC-338113A1.pdf (last visited Mar. 20, 2016).

³ See Second FNPRM, ¶ 40 (citing Nielsen, Mobile Consumer Report 2013 at 19, <http://www.nielsen.com/content/dam/corporate/uk/en/documents/Mobile-Consumer-Report-2013.pdf> and *17th Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Service*, 29 FCC Rcd 15311, 15347, Chart II.C.1.).

⁴ The per-minute and per-megabyte wholesale network costs described in this declaration reflect the rates from AMBT's lower-cost wholesale agreement. For subscribers utilizing AMBT's other underlying carrier, bare per-minute and per-MB network costs for either 700 minutes or 500 MB of service exceed \$9.25 per month and would require a co-payment from customers.

provider, as well as costs for our back-office vendor, compliance and legal fees, distribution, amortized customer acquisition, marketing, taxes, and other associated costs.

8. In addition, based solely on our per-megabyte cost of [BEGIN CONFIDENTIAL] [END CONFIDENTIAL], the network cost to provide 500 MB would be [BEGIN CONFIDENTIAL] [END CONFIDENTIAL]

9. Therefore, based on our total costs, AMBT cannot provide 500 MB each month to Lifeline customers without requiring our customers to pay for the service each month.

I assert under penalty of perjury that the foregoing is true and correct to the best of my information and belief. This concludes my declaration.

American Broadband and
Telecommunications Company

By:


Jeffrey Ansted
President

Executed on March 22, 2016